

PROVIDING FOR CONSIDERATION OF H.R. 2765, DISTRICT
OF COLUMBIA APPROPRIATIONS ACT, 2004

JULY 24 (legislative day, JULY 23), 2003.—Referred to the House Calendar and
ordered to be printed

Mr. LINDER, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 334]

The Committee on Rules, having had under consideration House Resolution 334, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2765, the District of Columbia Appropriations Act for fiscal year 2004, under an open rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill.

The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution.

The rule provides that the amendment printed in this report accompanying the resolution may be offered only by a Member designated in this report and only at the appropriate point in the reading of the bill, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or the Committee of the Whole. The rule waives all points of order against the amendment printed in this report.

The rule authorizes the Chair to accord priority in recognition to Members who have been preprinted their amendments in the Congressional Record.

The rule provides that after a motion that the Committee rise has been rejected on a legislative day, the Chairman of the Committee of the Whole may entertain another such motion on the day only if offered by the chairman of the Committee on Appropriations or the Majority Leader, or a designee. The rule provides that after a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII) has been rejected, the chairman may not entertain another such motion during further consideration of the bill.

Finally, the rule provides one motion to recommit with or without instructions.

The waiver of all points of order against consideration of the bill includes a waiver of clause 4(c) if rule XIII (requiring the three-day availability of printed hearings on a general appropriation bill), a waiver of section 401 of the Congressional Budget Act (prohibiting consideration of legislation providing new entitlement authority which becomes effective during the current fiscal year), because section 110 of the bill may provide a new entitlement, and a waiver of section 306 of the Congressional Budget Act (prohibiting consideration of legislation within the jurisdiction of the Committee on the Budget unless reported by the Budget Committee), because section 113 of the bill contains language concerning sequestration pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

The waiver of clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill) is needed, because there are numerous legislative provisions included in the bill. The waiver of clause 2 of rule XXI does not extend to the provisions specified in the resolution, which fall under the authorizing jurisdiction of the Committee on Government Reform and are as follows: beginning with “: Provided” on page 36, line 25 through page 37, line 3 (providing that employees of the District of Columbia are not subject to limitations on pay under title 5); section 112 (prohibiting sole source contracts even under circumstances where current District law would permit sole source contracts); section 117 (limiting the ability of the District of Columbia to accept and expend grants); and section 119 (limiting the ability of the District of Columbia to enter into procurement contracts in excess of \$2,500).

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 182

Date: July 23, 2003.

Measure: H.R. 2765, District of Columbia Appropriations Act, 2004.

Motion by: Mr. Frost.

Summary of motion: To strike the restrictive provisions limiting motions to rise and motions to strike the enacting words of the bill.

Results: Defeated 4 to 8.

Vote by Members: Goss—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—

Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

SUMMARY OF AMENDMENT MADE IN ORDER

Davis, Tom (VA)/Frelinghuysen/Boehner: Authorizes \$10 million in new federal funding for the District of Columbia to provide individual students up to \$7,500 in scholarship funds to be used at private schools of their own choosing in the District of Columbia. Scholarship funds may be used to cover the costs of tuition, fees and transportation. All funding for the scholarship program comes from new funds. Therefore, no public, private or charter school will be drained of any funds. Scholarships are to be based on need and the tuition and fees of the new school. Priority is to be given to low-income students in low-performing schools, as identified by the No Child Left Behind Act. Eligible Students must be residents of the District, and their family income cannot exceed 185% of the federal poverty level. Participating schools may not discriminate based on race, color, national origin or gender; however, religious schools are allowed to maintain their character through their employment practices and schools that offer single-gender classes or programs may participate. Grant money is distributed to various nonprofit organizations and District government agencies that must apply to the U.S. Department of Education and demonstrate to the Secretary how they will recruit students, find participating schools and ensure that funds are used properly. The Secretary is required to conduct an evaluation of the program's progress and submit an annual and a final report to Congress. Each grantee must submit an annual report to the Secretary regarding its activities and academic achievement of the students in the program. The Secretary will then prepare for Congress a report based on the information gathered from the grantees. (40 minutes)

TEXT OF AMENDMENT MADE IN ORDER

AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TOM DAVIS
OF VIRGINIA, OR HIS DESIGNEE DEBATABLE FOR 40 MINUTES

Page 52, insert after line 12 the following:

TITLE IV—DC PARENTAL CHOICE

SEC. 401. SHORT TITLE.

This title may be cited as the “DC Parental Choice Incentive Act of 2003”.

SEC. 402. FINDINGS.

The Congress finds the following:

(1) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their child.

(2) For many parents in the District of Columbia, public school choice provided for under the No Child Left Behind Act of 2001 is inadequate due to capacity constraints within the public schools. Therefore, in keeping with the spirit of the No Child Left Behind Act of 2001, school choice options, in addition to those already available to parents in the District of Columbia (such as magnet

and charter schools and open enrollment schools) should be made available to those parents.

(3) In the most recent mathematics assessment on the National Assessment of Educational Progress (NAEP), administered in 2000, a lower percentage of 4th-grade students in DC demonstrated proficiency than was the case for any State. Seventy-six percent of DC fourth-graders scored at the “below basic” level and of the 8th-grade students in the District of Columbia, only 6 percent of the students tested at the proficient or advanced levels, and 77 percent were below basic. In the most recent NAEP reading assessment, in 1998, only 10 percent of DC fourth-graders could read proficiently, while 72 percent were below basic. At the 8th-grade level, 12 percent were proficient or advanced and 56 percent were below basic.

(4) A program enacted for the valid secular purpose of providing educational assistance to low-income children in a demonstrably failing public school system is constitutional under *Zelman v. Simmons-Harris* if it is neutral with respect to religion and provides assistance to a broad class of citizens who direct government aid to schools solely as a result of their independent private choices.

SEC. 403. PURPOSE.

The purpose of this title is to provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary or secondary schools identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316), with expanded opportunities for enrolling their children in higher-performing schools in the District of Columbia.

SEC. 404. GENERAL AUTHORITY.

(a) **AUTHORITY.**—From funds appropriated to carry out this title, the Secretary shall award grants on a competitive basis to eligible entities with approved applications under section 405 to carry out activities to provide eligible students with expanded school choice opportunities. The Secretary may award a single grant or multiple grants, depending on the quality of applications submitted and the priorities of this title.

(b) **DURATION OF GRANTS.**—The Secretary may make grants under this section for a period of not more than 5 years.

SEC. 405. APPLICATIONS.

(a) **IN GENERAL.**—In order to receive a grant under this title, an eligible entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) **CONTENTS.**—The Secretary may not approve the request of an eligible entity for a grant under this title unless the entity’s application includes—

(1) a detailed description of—

(A) how the entity will address the priorities described in section 406;

(B) how the entity will ensure that if more eligible students seek admission in the program than the program can accommodate, eligible students are selected for admission through a random selection process which gives weight to the priorities described in section 406;

(C) how the entity will ensure that if more participating eligible students seek admission to a participating school than the school can accommodate, participating eligible students are selected for admission through a random selection process;

(D) how the entity will notify parents of eligible students of the expanded choice opportunities;

(E) the activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 407(a);

(F) how the entity will determine the amount that will be provided to parents for the tuition, fees, and transportation expenses, if any;

(G) how the entity will seek out private elementary and secondary schools in the District of Columbia to participate in the program, and will ensure that participating schools will meet the applicable requirements of this title and provide the information needed for the entity to meet the reporting requirements of this title;

(H) how the entity will ensure that participating schools are financially responsible;

(I) how the entity will address the renewal of scholarships to participating eligible students, including continued eligibility; and

(J) how the entity will ensure that a majority of its voting board members or governing organization are residents of the District of Columbia; and

(2) an assurance that the entity will comply with all requests regarding any evaluation carried out under section 409.

SEC. 406. PRIORITIES.

In awarding grants under this title, the Secretary shall give priority to applications from eligible entities who will most effectively—

(1) give priority to eligible students who, in the school year preceding the school year for which the eligible student is seeking a scholarship, attended an elementary or secondary school identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316);

(2) target resources to students and families that lack the financial resources to take advantage of available educational options;

(3) provide students and families with the widest range of educational options; and

(4) serve students of varying ages and grade levels.

SEC. 407. USE OF FUNDS.

(a) SCHOLARSHIPS.—

(1) **IN GENERAL.**—Subject to paragraph (2) and (3), a grantee shall use the grant funds to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses, if any, to enable them to attend the District of Columbia private elementary or secondary school of their choice. Each grantee shall ensure that the amount of any tuition or fees charged by a school participating in the grantee's program under this title to an eligible student participating in the program does not exceed the amount of tuition or fees that the school customarily charges to students who do not participate in the program.

(2) **PAYMENTS TO PARENTS.**—A grantee shall make scholarship payments under the program under this title to the parent of the eligible student participating in the program, in a manner which ensures that such payments will be used for the payment of tuition, fees, and transportation expenses (if any), in accordance with this title.

(3) **AMOUNT OF ASSISTANCE.**—

(A) **VARYING AMOUNTS PERMITTED.**—Subject to the other requirements of this section, a grantee may award scholarships in larger amounts to those eligible students with the greatest need.

(B) **ANNUAL LIMIT ON AMOUNT.**—The amount of assistance provided to any eligible student by a grantee under a program under this title may not exceed \$7,500 for any academic year.

(b) **ADMINISTRATIVE EXPENSES.**—A grantee may use not more than 3 percent of the amount provided under the grant each year for the administrative expenses of carrying out its program under this title during the year, including—

(1) determining the eligibility of students to participate;

(2) providing information about the program and the schools involved to parents of eligible students;

(3) selecting students to receive scholarships;

(4) determining the amount of scholarships and issuing them to eligible students;

(5) compiling and maintaining financial and programmatic records; and

(6) providing funds to assist parents in meeting expenses that might otherwise preclude the participation of their child in the program.

SEC. 408. NONDISCRIMINATION.

(a) **IN GENERAL.**—A school participating in any program under this title shall not discriminate on the basis of race, color, national origin, or sex in participating in the program.

(b) **APPLICABILITY AND CONSTRUCTION WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX.**—

(1) **APPLICABILITY.**—Notwithstanding subsection (a) or any other provision of law, it shall not be considered discrimination on the basis of sex for a school that is operated by, supervised by, controlled by, or connected to a religious organization to take sex into account to the extent that failing to do so would be inconsistent with the religious tenets or beliefs of the school.

(2) **SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.**—Notwithstanding subsection (a) or any other provision of law, a parent may choose and a school may offer a single-sex school, class, or activity.

(3) **CONSTRUCTION.**—With respect to discrimination on the basis of sex, nothing in subsection (a) shall be construed to require any person or public or private entity to provide or pay, or to prohibit any such person or entity from providing or paying, for any benefit or service, including the use of facilities, related to an abortion. Nothing in the preceding sentence shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or services related to a legal abortion.

(c) **CHILDREN WITH DISABILITIES.**—Nothing in this title may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act.

(d) RELIGIOUSLY AFFILIATED SCHOOLS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a school participating in any program under this title which is operated by, supervised by, controlled by, or connected to, a religious organization may employ persons of the same religion to the extent determined by that school to promote the religious purpose for which the school is established or maintained.

(2) RELIGIOUS PURPOSES.—Notwithstanding any other provision of law, funds made available under this title may be used for religious educational purposes, and no participating school shall be required to remove religious art, icons, scriptures, or other symbols. A participating school may retain religious terms in its name, select its board members on a religious basis, and include religious references in its mission statements and other chartering or governing documents.

(e) RULE OF CONSTRUCTION.—A scholarship (or any other form of support provided to parents of eligible students) under this title shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the eligible student. The amount of any scholarship (or other form of support provided to parents of an eligible student) under this title shall not be treated as income of the parents for purposes of Federal tax laws or for determining eligibility for any other Federal program.

SEC. 409. EVALUATIONS.

(a) IN GENERAL.—

(1) DUTIES OF SECRETARY.—The Secretary shall—

(A) conduct an evaluation using the strongest possible research design for determining the effectiveness of the programs funded under this title that addresses the issues described in paragraph (2); and

(B) disseminate information on the impact of the programs in increasing the student academic achievement of participating students, as well as other appropriate measures of student success, and on the impact of the programs on students and schools in the District of Columbia.

(2) ISSUES TO BE EVALUATED.—The issues described in this paragraph include the following:

(A) A comparison of the academic achievement of students who participate in the programs funded under this title with the academic achievement of students of similar backgrounds who do not participate in such programs.

(B) The success of the programs in expanding choice options for parents.

(C) The reasons parents choose for their children to participate in the programs.

(D) A comparison of the retention rates, dropout rates, and (if appropriate) graduation and college admission rates of students who participate in the programs funded under this title with the retention rates, dropout rates, and (if appropriate) graduation and college admission rates of students of similar backgrounds who do not participate in such programs.

(E) The impact of the program on students and public elementary and secondary schools in the District of Columbia.

(F) A comparison of the safety of the schools attended by students who participate in the programs and the schools attended by students who do not participate in the programs.

(G) Such other issues as the Secretary considers appropriate for inclusion in the evaluation.

(b) **REPORTS.**—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Governmental Affairs of the Senate—

(1) annual interim reports not later than December 1 of each year for which a grant is made under this title on the progress and preliminary results of the evaluation of the programs funded under this title; and

(2) a final report not later than 1 year after the final year for which a grant is made under this title on the results of the evaluation of the programs funded under this title.

(c) **PUBLIC AVAILABILITY.**—All reports and underlying data gathered pursuant to this section shall be made available to the public upon request, in a timely manner following submission of the applicable report under subsection (b), except that personally identifiable information shall not be disclosed or made available to the public.

(d) **LIMIT ON AMOUNT EXPENDED.**—The amount expended by the Secretary to carry out this section for any fiscal year may not exceed 3 percent of the total amount appropriated to carry out this title for the fiscal year.

SEC. 410. REPORTING REQUIREMENTS.

(a) **ACTIVITIES REPORTS.**—Each grantee receiving funds under this title during a year shall submit a report to the Secretary not later than July 30 of the following year regarding the activities carried out with the funds during the preceding year.

(b) **ACHIEVEMENT REPORTS.**—

(1) **IN GENERAL.**—In addition to the reports required under subsection (a), each grantee shall, not later than September 1 of the year during which the second academic year of the grantee's program is completed and each of the next 2 years thereafter, submit a report to the Secretary regarding the data collected in the previous 2 academic years concerning—

(A) the academic achievement of students participating in the program;

(B) the graduation and college admission rates of students who participate in the program, where appropriate; and

(C) parental satisfaction with the program.

(2) **PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.**—No report under this subsection may contain any personally identifiable information.

(c) **REPORTS TO PARENT.**—

(1) **IN GENERAL.**—Each grantee shall ensure that each school participating in the grantee's program under this title during a year reports at least once during the year to the parents of each of the school's students who are participating in the program on—

(A) the student's academic achievement, as measured by a comparison with the aggregate academic achievement of other participating students at the student's school in the same grade or level,

as appropriate, and the aggregate academic achievement of the student's peers at the student's school in the same grade or level, as appropriate; and

(B) the safety of the school, including the incidence of school violence, student suspensions, and student expulsions.

(2) PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.—No report under this subsection may contain any personally identifiable information, except as to the student who is the subject of the report to that student's parent.

(d) REPORT TO CONGRESS.—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Governmental Affairs of the Senate an annual report on the findings of the reports submitted under subsections (a) and (b).

SEC. 411. OTHER REQUIREMENTS FOR PARTICIPATING SCHOOLS.

(a) ADMISSION OF ELIGIBLE STUDENTS.—Each school choosing to participate in a program funded under this title shall accept any participating eligible student on a religious-neutral basis, except that if the school has more participating eligible students seeking admission than it can accommodate, the school shall accept participating eligible students through a religious-neutral, random selection process, consistent with section 405(b)(1)(C).

(b) REQUESTS FOR DATA AND INFORMATION.—Each school participating in a program funded under this title shall comply with all requests for data and information regarding evaluations conducted under section 409(a).

(c) RULES OF CONDUCT AND OTHER SCHOOL POLICIES.—Subject to section 408, a participating school may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at the school.

SEC. 412. DEFINITIONS.

As used in this title:

(1) ELEMENTARY SCHOOL.—The term “elementary school” has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE ENTITY.—The term “eligible entity” means any of the following:

(A) An educational entity of the District of Columbia Government.

(B) A nonprofit organization.

(C) A consortium of nonprofit organizations.

(3) ELIGIBLE STUDENT.—The term “eligible student” means a student who is a resident of the District of Columbia and who comes from a household whose income does not exceed 185 percent of the poverty line applicable to a family of the size involved.

(4) PARENT.—The term “parent” has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) POVERTY LINE.—The term “poverty line” has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) SECONDARY SCHOOL.—The term “secondary school” has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(7) SECRETARY.—The term “Secretary” means the Secretary of Education.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$10,000,000 for fiscal year 2004 and such sums as may be necessary for each of the 4 succeeding fiscal years.

